

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**TRIPLE S SPORTS AND §  
ENTERTAINMENT GROUP LIMITED §**

**Garnishor,**

**v.**

**CHRISTOPHER STEVEN KIRCHNER**

**Defendant/Judgment Debtor**

**and**

**MERRILL LYNCH, PIERCE, FENNER & §  
SMITH, INCORPORATED §**

**Garnishee. §**

**CIVIL ACTION NO. 4:22-CV-00861-P**

**COMPLAINT IN REMOVED ACTION FOR APPLICATION FOR  
JUDGMENT ON WRIT OF GARNISHMENT UNDER TEXAS LAW<sup>1</sup>**

1. Triple S Sports and Entertainment Group Limited (“Garnishor” or “Triple S”) by and through its attorneys in fact, ROWLETT HILL COLLINS LLP, previously made application under Texas law for the issuance of a writ of garnishment against MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (“Garnishee”) in Cause # 153-335874-22 in the 153<sup>rd</sup>

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<sup>1</sup> This Complaint was prepared and filed to comply with the Court’s Order [Doc. # 7] directing Garnishee to file an Amended Complaint to conform its previous state court Petition to Federal Court pleading style and requirements. As previously plead in Garnishor’s Motion for Remand or, Alternatively, Motion for Judgment [Doc. #8], Garnishee contends this proceeding was improperly removed to federal court and should be remanded. This Complaint is filed subject to Garnishee’s pending Motion for Remand or, Alternatively, Motion for Judgment and is not intended, nor should it be read, to be a request for a “new” Writ of Garnishment or any other relief beyond that sought in its Motion for Judgment should the Court deny Garnishee’s Motion for Remand. As explained more fully in its Alternative Motion for Judgment, the Garnishor has answered that it holds funds/accounts subject to the Writ of Garnishment issued by the state court and, pursuant to Texas law, there is no further litigation required than for the appropriate court to enter judgment ordering the delivery of those funds/accounts to Garnishor and, if necessary, the sale of securities held in those accounts followed by payment of those proceeds to Garnishor.

District Court of Tarrant County, Texas. The Tarrant County District Court issued the Writ and the Writ was served on Garnishee and the Defendant/Judgment Debtor, Christopher Steven Kirchner (“Kirchner”) against whom Garnishor holds a judgment valued at approximately \$2.1 Million including accrued interest. Garnishee, Merrill Lynch, Pierce, Fenner & Smith, Incorporated (“Merrill”) has answered the Writ and admitted holding accounts belonging to Kirchner valued at over \$252,000.00. See [Doc. #4, Merrill’s Answer to Writ of Garnishment] (Judicial Notice Requested)

2. Subject to its Motion for Remand, Garnishor Triple S has moved under Texas Law in this court, sitting in diversity, for Judgment for the funds/accounts/effects held by Garnishee. See [Doc. #8, Motion for Remand or, Alternatively, Motion for Judgment] (Judicial Notice Requested)

## **I. PARTIES**

3. Garnishor is a limited liability company organized under the laws of the United Kingdom. Triple S holds a Final Judgment against Defendant/Judgment Debtor Christopher Steven Kirchner, in the amount of approximately \$2.1 Million plus accruing interest. That Final Judgment remains valid and is wholly unsatisfied.

4. Defendant/Judgment Debtor, Christopher Steven Kirchner, is a resident of Westlake, Tarrant County, Texas which is located in the federal Judicial District for the Northern District of Texas. Mr. Kirchner is a “local Defendant” within the meaning of 28 U.S.C. 1441(b)(2) which precludes the exercise of diversity jurisdiction in this matter.

5. Garnishee is a foreign financial institution organized under the laws of the state of Delaware and registered to do business in Texas. Garnishee has been served with and has

answered the Writ of Garnishment issued in this proceeding by the Tarrant County District Court and has generally appeared for all purposes.

## **II. JURISDICTION**

6. As explained in Garnishor's Motion for Remand, Garnishor does NOT believe this federal court may exercise subject matter jurisdiction over this matter under the diversity of jurisdiction statute invoked by Garnishee for, among other reasons, Defendant/Judgment Debtor Kirchner is a "local defendant" residing within the area encompassing the judicial district for the Northern District of Texas. See [Doc. #8](Judicial Notice Requested).

7. This Court would, if the exercise of diversity jurisdiction is found to be proper, have personal jurisdiction over the parties as Garnishor and Garnishee have voluntarily submitted themselves to jurisdiction in this District and Defendant/Judgment Debtor Kirchner is a resident of this District.

## **III. VENUE**

8. If the exercise of diversity jurisdiction is found to be proper in this matter, Venue would be proper in this District as the Defendant/Judgment Debtor is a resident of this District and the state court action that is the subject of this removed case was pending within this District in Tarrant County, Texas.

## **IV. STATEMENT OF THE CASE**

9. On August 9, 2022, in this the 153<sup>rd</sup> Judicial District Court of Tarrant County, Texas in cause number 153-334352-22, and styled, *Triple S Sports and Entertainment Group Limited v. Christopher Steven Kirchner* (the "Lawsuit"), this Court entered judgment that Garnishor recover from Christopher Steven Kirchner, damages in the amount of \$2,098,990.67 plus interest at the contractual rate of 5.75% until paid. A true and correct copy of the Judgment

is attached hereto as Exhibit A. The judgment is in all things valid, and subsisting, and it is wholly unsatisfied.

10. The state court issued a Writ of Garnishment directed to Garnishee and Garnishee and the Defendant/Judgment Debtor were duly served with the Writ and related materials pursuant to Texas law.

11. After removing the state court proceeding to this Court, Garnishee answered the Writ and admitted holding funds/accounts/securities belonging to Kirchner valued at just over \$252,000.00. See [Doc. 4, Garnishee's Answer] (Judicial Notice Requested).

12. Garnishor has now moved under Texas law, subject to its Motion for Remand, for Judgment on the Writ and Garnishee's Answer. See [Doc. 8, Motion for Remand or, Alternatively, Motion for Judgment] (Judicial Notice Requested).

13. The name and last known post office address of the Defendant/Judgment Debtor, Christopher Steven Kirchner ("Kirchner"), is:

Christopher Steven Kirchner  
1209 Perdenalas Tr.  
Westlake, TX 76262

14. Within Garnishor's knowledge, the judgment debtor, Christopher Steven Kirchner, does not possess property in Texas subject to execution that is sufficient to satisfy the above-described judgment.

15. Garnishee has admitted in its Answer to having in hand non-exempt property belonging to Kirchner consisting of one or more bank account(s), securities accounts, and other assets of Kirchner valued at slightly over \$252,000.00.

16. Garnishor's application for the Writ issues by the state court was supported by the declaration of Stewart Jones, a person having knowledge of the relevant facts. See [Doc. #1-2] (Juridical Notice Requested)

**V. REQUEST FOR RELIEF**

17. WHEREFORE, subject to its Motion for Remand, Garnishor requests the Court enter Judgment that Garnishee shall pay to Garnishor the full value of the accounts identified in Garnishee's Answer to the State Court Writ of Garnishment and, if necessary, to sell at current market prices and reduce to cash any securities held in the identified accounts and to pay such proceeds to Garnishor to satisfy the prior judgment as provided by law, together with all costs of court, and such other relief to which Garnishee may be justly entitled.

Respectfully submitted,

**ROWLETT HILL COLLINS LLP**

By: /s/ Donald E. Hill  
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**ATTORNEYS FOR TRIPLE S SPORTS AND  
ENTERTAINMENT GROUP LIMITED**

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was served on counsel for Garnishee, Mr. Justin Opitz, via the District Court's ECF system on the 19<sup>th</sup> day of October 2022.

/s/ Donald E. Hill  
Donald E. Hill  
Counsel for Garnishor